


Atty. Docket No.: 6510-170-CON2  
USSN: 09/265,191

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<b>RESPONSE TO ELECTION REQUIREMENT</b>  Address to: Assistant Commissioner for Patents Washington, D.C. 20231		Attorney Docket	6510-170 CON2
		First Named Inventor	Carson, et al.
		Application Number	09/265,191
		Filing Date	March 10, 1999
		Group Art Unit	1632
		Examiner Name	Q. Nyugen
		Title	<i>Immune Stimulatory Compositions and Methods for Use of Same to Enhance the Immune Response of a Host to an Antigen</i>

Sir:

This is in response to the Restriction Requirement dated September 26, 2000. The Examiner therein required election of one of the following groups of claims:

Group I, including claims 87, 88, 91, 92, 110, 111, 114, 115, 133, 134, 137, 138, 156, 157, 160, and 161, directed to various methods, comprising administering an immunostimulatory polynucleotide and an antigen in the form of a polynucleotide; and

Group II, including claims 89, 90, 112, 113, 135, 136, 158, and 159, directed to various methods, comprising administering an immunostimulatory polynucleotide and an antigen in the form of a polypeptide.

The Restriction Requirement stated that claims 85, 86, 93-107, 108, 109, 116-130, 131, 132, 139-153, 154, 155, and 162-176 would be examined with the elected group.

#### Telephonic Interview

Applicants' representative wishes to thank the Examiners for the courtesy of a telephonic interview, which took place on November 28, 2000, and which was attended by Examiner Q. Nguyen, Examiner D. Crouch, and Applicants' representatives Carol L. Francis and Paula Borden. During the telephonic interview, the restriction requirement and the claim numbering were discussed.

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Applicants' representatives noted that the restriction requirement appeared to be a species election requirement. The Examiners agreed that the restriction requirement is indeed a species election requirement, as shown below.

The claim numbering was determined to be incorrect. The Examiner stated that the claim numbering as set forth in the Restriction Requirement is incorrect, and that the pending claims should be numbered 110-201.

Species Election

As discussed during the telephonic interview, the generic and species claims are as follows (with new claim numbering as suggested by Examiner Crouch):

1) polynucleotide species, corresponding to claims 112, 113, 116, 117, 135, 136, 139, 140, 158, 159, 162, 163, 181, 182, 185, and 186, (as formerly set forth in Group I); and

2) polypeptide species, corresponding to claims 114, 115, 137, 138, 160, 161, 183, and 184 (as formerly set forth in Group II).

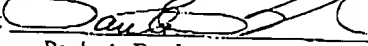
The generic claims are claims 110, 111, 118-134, 141-157, 164-180, and 187-201.

Without acquiescing to the grounds on which the requirement was based, and solely in the interest of expediting prosecution, Applicants hereby elect to prosecute the polypeptide species claims, *i.e.*, claims 114, 115, 137, 138, 160, 161, 183, and 184, without traverse. Applicants note that generic claims 110, 111, 118-134, 141-157, 164-180, and 187-201 will be examined with the elected group.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number 6510-170 CON2.

Respectfully submitted,  
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Date: Dec. 11, 2000

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